Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
DOUGLAS BURKE, D.C.

Respondent Name
AMERICAN ZURICH INSURANCE CO

MFDR Tracking Number
M4-14-1206-01

Carrier's Austin Representative
Box Number 19

MFDR Date Received
DECEMBER 31, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The patient was evaluated by Doctor Burke and with the Documentation our office put in for the pre-auth for 'Work Harding' that was approved for 10 sessions and the approval number is 130606-277415."

Amount in Dispute: $1,848.28

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Carrier disputes that requestor is entitled to reimbursement as it did not secure preauthorization as required under 28 TAC 134.600 prior to the rendition of these services. Carrier has also disputed that the treatments related to the compensable injury. By an approved DWC-24 form dated April 11, 2013, Carrier and Claimant agreed that the compensable injury did not extend to include the neck condition after October 22, 2012. A copy of this agreement is attached. Carrier maintains that requestor is not entitled to reimbursement for these treatment that do not relate to the compensable injury."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 17, 2013 June 24, 2013	CPT Code 97545-WH (4 Hours) and 97546-WH (11 Hours)	$882.28	$0.00
June 26, 2013 June 27, 2013	CPT Code 97545-WH (4 Hours) and 97546-WH (12 Hours)	$966.00	$819.20
TOTAL		$1,848.28	$819.20

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets forth general provisions regarding dispute of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.

3. 28 Texas Administrative Code §141.1 sets out the procedures for requesting and setting a Benefit Review Conference.
4. 28 Texas Administrative Code §134.600, effective July 1, 2012, requires preauthorization for work hardening programs.
5. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the disputed services.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 219-Based on extent of injury.
   - 18-Duplicate claim/service.
   - 197-Precertification/authorization/notification absent.
   - 218-Based on entitlement to benefits.
   - W1-Workers' compensation jurisdictional fee schedule adjustment.

Issues

1. Did the requestor file for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.305 and §133.307?
2. Is the requestor eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307?
3. Does a preauthorization issue exist in this dispute for services rendered on June 26, 2013 and June 27, 2013?
4. Is the requestor entitled to reimbursement for the work hardening program rendered on June 26, 2013 and June 27, 2013?

Findings

1. The respondent denied reimbursement for the work hardening program rendered on June 17, 2013 and June 24, 2013 based upon reason codes "218 and 219."

   The respondent contends that "By an approved DWC-24 form dated April 11, 2013, Carrier and Claimant agreed that the compensable injury did not extend to include the neck condition after October 22, 2012." A review of the submitted medical bills for date of service June 17, 2013 and June 24, 2013 finds that treatment was for injuries other than the neck condition; therefore, the extent of injury issue has not been resolved.

   According to 28 Texas Administrative Code §133.305(a)(5), "Medical fee dispute--A dispute that involves an amount of payment for non-network health care rendered to an injured employee that has been determined to be medically necessary and appropriate for treatment of that injured employee's compensable injury. The dispute is resolved by the division pursuant to division rules, including §133.307 of this title (relating to MDR of Fee Disputes)." 28 Texas Administrative Code §133.305(b) goes on to state that "If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability, or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and §408.021." 28 Texas Administrative Code §133.307(f)(3)(C) states "The division may dismiss a request for MFDR if: the request contains an unresolved compensability, extent of injury, or liability dispute for the claim." The appropriate dispute process for unresolved issues of compensability, extent and/or liability requires filing for a Benefit Review Conference pursuant to 28 Texas Administrative Code §141.1 prior to requesting medical fee dispute resolution. No documentation was submitted to support that the issue(s) of compensability, extent and/or liability have been resolved for disputed dates of service June 17, 2013 and June 24, 2013.
2. The requestor has failed to support that the disputed services rendered on June 17, 2013 and June 24, 2013 are eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.
3. According to the explanation of benefits, the respondent denied reimbursement for date of service June 26, 2013 and June 27, 2013 based upon reason code "197."

   28 Texas Administrative Code §134.600(p)(4)(A) requires preauthorization for "all work hardening or work conditioning services requested by:
   (A) non-exempted work hardening or work conditioning programs; or

   (B) division exempted programs if the proposed services exceed or are not addressed by the division's treatment guidelines as described in paragraph (12) of this subsection."

   The requestor contends that "'Work Harding' that was approved for 10 sessions and the approval number is 130606-277415." In support of their position, a copy of a preauthorization report was submitted that indicates that on June 6, 2013, the respondent preauthorized "Work Hardening, 05/31/2013 – 07/31/2013 (10 Visits)."

   No documentation was submitted to support that the requestor exceeded the 10 visits. Furthermore, the

disputed dates of service are within the preauthorized timeframe; therefore, a preauthorization issue does not exist and reimbursement is recommended.

4. 28 Texas Administrative Code §134.204(h)(1)(B) states "If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

   28 Texas Administrative Code §134.204(h)(3)(A) and (B) states "For Division purposes, Comprehensive Occupational Rehabilitation Programs, as defined in the CARF manual, are considered Work Hardening.

   (A) The first two hours of each session shall be billed and reimbursed as one unit, using CPT Code 97545 with modifier "WH." Each additional hour shall be billed using CPT Code 97546 with modifier "WH." CARF accredited Programs shall add "CA" as a second modifier.

   (B) Reimbursement shall be $64 per hour. Units of less than one hour shall be prorated by 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to 8 minutes and less than 23 minutes."

   The Division finds that the requestor billed CPT code 97545WH and 97546WH for sixteen hours on June 26, 2013 and June 27, 2013. Therefore, per 28 Texas Administrative Code §134.204(h)(1)(B) and (3)(A) and (B), the MAR for a non-CARF accredited program is $51.20 per hour ($64.00 X 80%). $51.20 times the 16 hours billed is $819.20. The respondent paid $0.00. The difference between the MAR and amount paid is $819.20. This amount is recommended for additional reimbursement.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $819.20.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $819.20 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	07/03/2014 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.